



Brian L. Gardner
Member
Admitted in NY

Reply to New York Office
Writer's Direct Line: 646.563.8937
Writer's Direct Fax: 646.563.7937
Writer's E-Mail: bgardner@coleschotz.com

1325 Avenue of the Americas, 19th Floor
New York, NY 10019
212-752-8000 212-752-8393 fax

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New Jersey
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Delaware
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Maryland
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February 18, 2025

Via ECF

MEMORANDUM ENDORSED

Hon. Gabriel W. Gorenstein, U.S.M.J.
United States District Court, Southern District
of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York New York 10007

Re: *Jimenez-Fogarty v. Fogarty, et al.*
Case No.: 1:24-CV-08705-JLR-GWG

Dear Judge Gorenstein:

As the Court is aware, this firm represents Defendant Thomas Fogarty in the above-referenced action. We were also very recently retained to represent Defendant Laura Marino in this action. (*See* ECF No. 60 (Notice of Appearance of Counsel, Brian L. Gardner, Esq. dated February 18, 2025); ECF No. 61 (Notice of Appearance of Counsel, Courtney G. Hindin, Esq. dated February 18, 2025)). In accordance with Rule 1.E. of Your Honor's Individuals Practices, we submit this letter motion to respectfully request an extension of time to move, answer, or otherwise respond to Plaintiff's First Amended Complaint on behalf of Ms. Marino.

We have reviewed the Court's Order, dated February 3, 2025, adjourning *sine die*, until further Order of the Court, the deadline for "any defendant to file a response to either the original or the first amended complaint" in light of the "significant possibility that there will be yet another amended complaint filed" by Plaintiff. (*See* ECF No. 56 (the "February 3 Order")). We have also reviewed the Court's subsequent Order, dated February 11, 2025, issued in response to, *inter alia*, Plaintiff's request for permission to file a motion for default judgment as to certain defendants, including Ms. Marino. (*See* ECF No. 59). Given our recent appearance for Ms. Marino in this case, and our intent to file a responsive pleading on her behalf, we respectfully request that, consistent with the Court's February 3 Order, Ms. Marino's time to respond to the original or the first amended complaint be adjourned *sine die* until further Order of the Court. We respectfully submit that such an extension will advance the Court's stated goal of efficiency in this action by ensuring that all defendants respond to the operative complaint at the same time and, to the extent any motions to dismiss are filed, they proceed on the same briefing schedule. (*See* ECF No. 30 (Court Order dated Dec. 20, 2024)).

 COLE SCHOTZ P.C.

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This is Ms. Marino's first request for an extension of time in this case. This morning, my colleague, Ms. Hindin, contacted Plaintiff's counsel via email to request Plaintiff's consent to the above-described extension. As of the filing of this letter motion, we have not received any response from Plaintiff's counsel.

In sum, we respectfully request that Your Honor grant the requested extension and, consistent with the deadline applicable to the other defendants in this case, adjourn *sine die* the deadline for Ms. Marino's responsive pleading until further Order of the Court. As always, we thank the Court for its time and attention to this matter.

Respectfully submitted,

/s/ Brian L. Gardner

Brian L. Gardner

BLG:cgh

The Court has reviewed this letter and plaintiff's response. In light of the fact that the Second Circuit has expressed a "strong preference for resolving disputes on the merits" rather than by default, New York v. Green, 420 F.3d 99, 104 (2d Cir. 2005), that responses to the complaint are not due yet, that discovery has not begun, that counsel has filed a notice of appearance on behalf of Ms. Marino, and that plaintiff has shown no prejudice from granting the extension (other than her hope to obtain judgment by default), the Court adjourns *sine die* the deadline for Laura Marino to respond to the complaint or to the first amended complaint on the same basis as all other defendants (see Docket # 56).

So Ordered.



GABRIEL W. GORENSTEIN
United States Magistrate Judge

February 20, 2025